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REPLY BRIEF

Applicants	: Andrej Gregov et al.
App. No	: 09/648,314
Filed	: August 25, 2000
For	: USER-DIRECTED PRODUCT RECOMMENDATIONS
Examiner	: Eitenne Pierre Leroux
Art Unit	: 2161
Conf No.	: 6403

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Commissioner for Patents

P.O. Box 1450

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Dear Sir:

This Reply Brief is responsive to the Examiner's Answer issued on January 3, 2011, and supplements the arguments made in Appellant's Appeal Brief. As appropriate, some of the issues previously argued in the Appeal Brief with regards to pending Claims 15, 16, 27-35, and 40-51 are discussed below.

Rejection of Claims 15, 16, 27-35, and 40-51 Under 35 U.S.C. § 112, First Paragraph

In the Appeal Brief, the Appellant asserted that Figures 6 and 7 independently “convey[] to the artisan that the inventor had possession at that time of the later claimed subject matter.” *Ralston Purina*, 772 F.2d 1570, 1575 (Fed. Cir. 1985). In connection with this issue, Applicant noted that the written description states, with regard to Figure 6, the list of recommended items 610, 620, 630, 640, and 650 “are based on using item 691 alone as a seed for the recommendation engine.” Figure 6, taken with its corresponding written description, therefore explicitly denotes item 691 as the solitary seed item, and further

demonstrates that this item does not appear in the generated list of recommended items.

Similarly, with reference to Figure 7, Applicant pointed out that the description states that “the facility has added seed item 793 to the list 790 of the user-selected seed items. The list of recommended items 710, 720, 730, 740, and 750 is correspondingly revised to include items recommended based upon these two seed items.” Figure 7 therefore illustrates an additional embodiment of a seed list comprising items 791 and 793, neither of which are included in the list of generated recommended items. Applicant thus noted that both Figure 6 and Figure 7 independently provide support for the recitation “wherein the generated list does not contain the selected seed item.”

In response, the Examiner’s Answer asserts, in part, that “[t]he generated list [of Figure 5] includes The Art of Digital Photography, by Tom Ang, item 550. Figure 6 shows a seed item 691 which is The Art of Digital Photography, by Tom Ang. Clearly the written description contradicts the claim limitation ‘wherein the generated list does not include the selected seed item’ because the generated list of recommended items of Figure 5 includes the seed item 691 of Figure 6.” The Examiner’s Answer further raises several examples in which illustrative items from Figure 4 and Figure 5 allegedly appear in a later figure, and argues that the written description thus contradicts the recitation “wherein the generated list does not contain the selected seed item.” Still further, the Examiner’s Answer argues that item 631 in Figure 6 is allegedly a seed item corresponding to recommended item 630, and that Figure 5 allegedly shows an example “in contradiction to the claim limitation.”

Appellant respectfully disagrees with the interpretations asserted in the Examiner’s Answer. Although items with the same name are used for the purpose of example in multiple figures, the figures shown in the specification represent independent illustrative embodiments of the present invention. As discussed in the Appeal Brief and revisited above, Appellant relies at least on Figures 6 and 7 of the specification, along with the corresponding written description. The text accompanying Figures 6 and 7 clearly identifies both the illustrative seed list and the list of generated recommended items being used in each independent figure. Thus, as discussed in the specification, item 631 identified in the Examiner’s Answer

corresponds to a “more like this button,” and not to a seed item. The specification states, rather, that “the user may click button 631 in order to add item 630 to the list of user specified seed items.” Therefore, insofar as neither figure shows a generated list containing a seed item, both figures independently provide support for the recitation “wherein the generated list does not contain the selected seed item.” Any alleged contradictions to the claim element in other independent figures or embodiments are immaterial insofar as both Figure 6 and 7 clearly show that the Appellant had possession of the claimed invention.

CONCLUSION

In view of the foregoing, and for the reasons set forth in the Appeal Brief, the rejection of Claims 15, 16, 27-35, and 40-51 under 35 U.S.C. § 112, first paragraph, is improper and should be reversed.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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Dated: March 2, 2011

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